PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Mailed 10/27/05

| Applicant | 's or agent's file reference | FOR FURTHER ACT | TION | See Form PCT/IPEA/416 |
|---|--|--|---|--|
| International application No. | | International filing date (a | lay/month/year) | Priority date (day/month/year) |
| PCT/US0 | 4/06550 | 03 March 2004 (03.03.200 | | 04 March 2003 (04.03,2003) |
| Internatio | nal Patent Classification (IPC) | or national classification and | IPC | |
| | 63F 09/24 and US Cl.: 463/25 | | | |
| Applicant | | | | |
| WALKEI | DIGITAL, LLC | | | |
| 1. | Examining Authority unde | r Article 35 and transmitt | ed to the applicant ac | |
| 2. | This REPORT consists of | a total of $oldsymbol{1}$ sheets, inch | iding this cover sheet | |
| 3. | This report is also accompa | anied by ANNEXES, con | nprising: | |
| | a. (sent to the applica | nt and to the Internationa | al Bureau) a total of | sheets, as follows: |
| | this report ar | description, claims and/ond/or sheets containing round for the Administrative | ectifications authorize | we been amended and are the basis of ed by this Authority (see Rule 70.16 |
| | that goes bey | supersede earlier sheets, rond the disclosure in the d the Supplemental Box. | but which this Authorinternational application | ority considers contain an amendment tion as filed, as indicated in item 4 of |
| | b. (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). | | | thereto, in electronic form only, as |
| 4. | This report contains indica | tions relating to the follow | wing items: | |
| | K | asis of the report | | |
| | Box No. II Pr | iority | | |
| | Married Marrie | on-establishment of opini plicability | ion with regard to novelty, inventive step and industrial | |
| | Box No. IV La | ack of unity of invention | | |
| | Box No. V Re | easoned statement under dustrial applicability; cita | Article 35(2) with tions and explanation | regard to novelty, inventive step or supporting such statement |
| | Box No. VI Co | ertain documents cited | | |
| | Box No. VII Co | ertain defects in the interr | national application | |
| Box No. VIII Certain observations on the inte | | international applica | tion | |
| Date of s | Date of submission of the demand | | Date of completion | of this report |
| 19 August | 18 August 2004 (18.08.2004) | | 07 October 2005 (07.1 | (0.2005) |
| Name and mailing address of the IPEA/US | | 1 1 1 1 1 1 1 1 1 1 1 1 1 | | |
| į | Mail Stop PCT, Attn: IPEA/US Commissioner for Patents | | Authorized officer harm 9 / Spelent for Xuan Thai | |
|] | P.O. Box 1450 | ' | / | |
| Alexandría, Virginia 22313-1450 Facsimile No. (571) 273-3201 | | Telephone No. 571-2 | 72-3700 | |

Facsimile No. (571) 273-3201 Form PCT/IPEA/409 (cover sheet)(April 2005)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

| nternational | application l | No. |
|--------------|---------------|-----|

PCT/US04/06550

| Bo | x No. | . I Basis of the report | |
|------------|-------------|--|--|
| 1. | With | regard to the language, this report is based on: | |
| | \boxtimes | the international application in the language in which it was filed. | |
| | | a translation of the international application into <u>English</u> , which is the language of a translation furnished for the purposes of: | |
| | | international search (under Rules 12.3 and 23.1(b)) | |
| | | publication of the international application (under Rule 12.4(a)) | |
| | | international preliminary examination (under Rules 55.2(a) and/or 55.3(a)) | |
| 2. | to the | regard to the elements of the international application, this report is based on (replacement sheets which have been furnished a receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not exed to this report): | |
| | \boxtimes | the international application as originally filed/furnished | |
| | \boxtimes | the description: | |
| | | pages 1-96 as originally filed/furnished pages* NONE received by this Authority on | |
| | | pages* NONE received by this Authority on | |
| | | | |
| | | the claims: pages 97-102 as originally filed/furnished | |
| | | pages* NONE as amended (together with any statement) under Article 19 | |
| | | pages* NONE received by this Authority on | |
| | | pages* NONE received by this Authority on | |
| | \boxtimes | the drawings: | |
| | | pages 1-17 as originally filed/furnished | |
| | | pages* NONE received by this Authority on received by this Authority on received by this Authority on | |
| | | • • | |
| | | a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing. | |
| 3. | \boxtimes | The amendments have resulted in the cancellation of: | |
| | | the description, pages NONE | |
| | | the claims, Nos. NONE | |
| | | the drawings, sheets/figs NONE | |
| | | the description, pages NONE the claims, Nos. NONE the drawings, sheets/figs NONE the sequence listing (specify): NONE any table(s) related to the sequence listing (specify): NONE | |
| | | any table(s) related to the sequence listing (specify): NONE | |
| 4. | | This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)). | |
| | | the description, pages | |
| | | the claims, Nos. | |
| | | the drawings, sheets/figs | |
| | | the sequence listing (specify): | |
| | | any table(s) related to the sequence listing (specify): | |
| <u>.</u> - | C.4 | 4 applies, some or all of those sheets may be marked "superseded." | |
| " I, | ј нет | 4 appues, some or an of mose sneed may be marined supersedent | |

Form PCT/IPEA/409 (Box No. I) (April 2005)

| International | application | No. |
|---------------|-------------|-----|

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

PCT/US04/06550

| Box No. | ш | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
|----------------------|-------------------|--|
| The que industria | stions ally ap | whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be oplicable have not been examined in respect of: |
| | the e | ntire international application |
| \boxtimes | clain | ns Nos. <u>9-32</u> |
| | beca | use: |
| | the s not r | aid international application, or the said claim Nos relate to the following subject matter which does equire an international preliminary examination (specify): |
| | the d | description, claims or drawings (indicate particular elements below) or said claims Nos are so unclear no meaningful opinion could be formed (specify): |
| | the o | claims, or said claims Nos are so inadequately supported by the description that no meaningful ion could be formed (specify): |
| \boxtimes | no in | sternational search report has been established for said claims Nos. <u>9-32</u> |
| | | eaningful opinion could not be formed without the sequence listing; the applicant did not, within the cribed time limit: |
| | | furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it. |
| | | furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it. |
| | | pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b) and 13ter.2. |
| | not, | eaningful opinion could not be formed without the tables related to the sequence listings; the applicant did within the prescribed time limit, furnish such tables in electronic form complying with the technical irements provided for in Annex C-bis of the Administrative Instructions, and such tables were not lable to the International Preliminary Examining Authority in a form and manner acceptable to it. |
| | the com | tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not ply with the technical requirements provided for in Annex C- bis of the Administrative Instructions. |
| | | Supplemental Box for further details |

Form PCT/IPEA/409 (Box No. III) (April 2005)

International application No. PCT/US04/06550

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

| Box No. V Reasoned statement unde applicability; citations are | er Article 35(2) with ad explanations sup | h regard to novelty, inventive step or industrial oporting such statement |
|---|---|---|
| 1. Statement | | |
| Novelty (N) | Claims | 3, 4YES |
| | | <u>1, 2, 5-8</u> NO |
| | | XES. |
| Inventive Step (IS) | | NONE YES 1-8 NO |
| | Claims | <u>1-8</u> NO |
| Industrial Applicability (IA) | Claims | 1-8YES |
| ************************************** | | NONE NO |
| players to make bets on various events. A bal wager amount is determined for a game. For betmaker"). The system determines whether not accept bets less than the minimum bet; the amount (See Betmaker.com "FAQ"). A confiamount. For example, a confirmation messag [claim 1]. The game comprises a plurality of [claim 2]. The wager amount required corresponds to a predetermined perioplayer wagers on a specific time limit for the Betmaker.com "Buy-wagering") [claim 7]. T "Buy-wagering) [claim 8]. It is noted that the Examiner archives. Claims 3 and 4 lack an inventive step under P 6,077,163. Betmaker.com lacks in disclosing machine in which the game comprises a flat robvious to one of ordinary skill in the art at the session by prepaying or by paying for a flat reconstantly having to wager for other games. | lance of funds is estable example, there are minthe wager amount is greefore, the computer suffered in the wager amount is greefore, the computer suffered is displayed if the plays. For example, for example it was been that the game comprisate session and a prepare time the invention water session a player only for example it would have title 33(4), and thus have | anticipated by Betmaker.com. Betmaker.com teaches of method for lished for a player (See Betmaker.com, "FAQ player accounts"). A nimum wager amounts required (See Betmaker.com "about reater than a predetermined amount. For example, the system will system checks to make sure the bet is greater than the minimum bet splayed if the wager amount is greater than the predetermined layer meets the minimum bet (See Betmaker.com "Buy-wagering") cotball and baseball involve plays in game play (See Betmaker.com) plays (See Betmaker.com "parlays") [claim 5]. The wager amount ker.com "singles", "general rules") [claim 5]. For example, the confirmation message comprises a confirmation screen (See in comprises at least one selectable location (See Betmaker.com 121, 2001 version of Betmaker.com from the Internet seing obvious over Betmaker.com in view of Walker, U.S. Patent No.ses a flat rate or a prepaid session. Walker discloses a gaming and session (See Walker abstract) [claims 3 & 4]. It would have been was made to have the users of Betmaker.com propay for a flat rate by has to wager once for multiple games and is not burdened with have been obvious that, a player could wager \$100 to be divided up has industrial applicability because the subject matter claimed can be |

Form PCT/IPEA/409 (Box No. V) (April 2005)

PATENT COOPERATION TREATY

Confirmation Screen.

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Bute of Mailory MAY 04,2005

| Applicant's or agent's file reference 03-018WO | FOR FURTHER ACTION as | see Form PCT/ISA/220 well as, where applicable, item 5 below. | | | |
|--|---|---|--|--|--|
| International application No. PCT/US04/06550 | International filing date (day/monto) 03 March 2004 (03.03.2004) | th/year) (Earliest) Priority Date (day/month/year) 04 March 2003 (04.03.2003) | | | |
| Applicant WALKER DIGITAL, LLC | | | | | |
| This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau. This international search report consists of a total of sheets. It is also accompanied by a copy of each prior art document cited in this report. | | | | | |
| | international search was carried ou nless otherwise indicated under this | t on the basis of the international application in the item. | | | |
| | search was carried out on the basis rity (Rule 23.1(b)). | of a translation of the international application | | | |
| | de and/or amino acid sequence dis unsearchable (See Box No. II) | sclosed in the international application, see Box No. I. | | | |
| 3. Unity of invention is lackin 4. With regard to the title, the text is approved as subm | g (See Box No. III) | | | | |
| the text has been established | by this Authority to read as follow | 'S: | | | |
| MAY 0 6 2005 WALKER DIGITAL | A | ile No: 03-018WD httorney: MDD Oue Date: 7-4-05 Docketed: 5-11-05 | | | |
| 5. With regard to the abstract, the text is approved as subm | | s Authority as it appears in Box No. IV. The applicant | | | |
| | | tional search report, submit comments to this Authority. | | | |
| as suggested by the | Authority, because the applicant fai Authority, because this figure better | led to suggest a figure. | | | |

Form PCT/ISA/210 (first sheet) (January 2004)

International application No.

PCT/US04/06550

| Box N | | Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet) | | |
|--|--------------|--|--|--|
| This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons: | | | | |
| 1. | | Claims Nos.: because they relate to subject matter not required to be searched by this Authority, namely: | | |
| 2. | | Claims Nos.: because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically: | | |
| 3. | | Claims Nos.: because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a). | | |
| Box N | No. III | Observations where unity of invention is lacking (Continuation of item 3 of first sheet) | | |
| | | ional Searching Authority found multiple inventions in this international application, as follows: ontinuation Sheet | | |
| 1. 2. 3. | | As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims. As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee. As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.: | | |
| 4. Rema | X rk on l | No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.: 1-8 Protest The additional search fees were accompanied by the applicant's protest. No protest accompanied the payment of additional search fees. | | |
| | | 000 J | | |

Form PCT/ISA/210 (continuation of first sheet(2)) (January 2004)

International application No.

PCT/US04/06550

| A. CLASSIFICATION OF SUBJECT MATTER IPC(7) : A63F 09/24 | | | | |
|--|--|---|--|--|
| US CL | : 463/25 International Patent Classification (IPC) or to both nat | ional classification and IPC | | |
| | International Patent Classification (IPC) or to both nat DS SEARCHED | ional classification and If C | | |
| | | | | |
| | cumentation searched (classification system followed b 63/25, 29 | y classification symbols) | | |
| Documentation | on searched other than minimum documentation to the | extent that such documents are included i | n the fields searched | |
| | ta base consulted during the international search (name ontinuation Sheet | of data base and, where practicable, sea | rch terms used) | |
| C. DOCT | JMENTS CONSIDERED TO BE RELEVANT | | | |
| Category * | Citation of document, with indication, where ap | | Relevant to claim No. | |
| х | Betmaker.com, July 21, 2001 [online] [Retrieved on Internet < URL:http://www.betmaker.com>. | | 1, 2, 5-8 | |
| Y | internet < OKL:http://www.ocimaker.com>. | | 3, 4 | |
| Y | US 6,077,163 A (WALKER et al) 20 June 2000 (20. | 06.2000), entire document. | 3, 4 | |
| A | US 5,873,782 A (HALL) 23 February 1999 (23.02.1 | .999), entire document. | 1-8 | |
| A | US 6,299,532 B1 (SMITH) 09 October 2001 (09.10. | 1-8 | | |
| A | US 6,336,857 A (MCBRIDE) 08 January 2002 (08.0 | 01.2002), entire document. | 1-8 | |
| X, P US 6,527,638 B1 (WALKER et al) 04 March 2003 (04.03.2003), entire docum | | (04.03.2003), entire document. | 1-8 | |
| | | | | |
| Further | documents are listed in the continuation of Box C. | See patent family annex. | | |
| * S ₁ | pecial categories of cited documents: | "T" later document published after the int date and not in conflict with the appli | | |
| | defining the general state of the art which is not considered to be lar relevance | principle or theory underlying the inv | vention | |
| · · | plication or patent published on or after the international filing date | "X" document of particular relevance; the considered novel or cannot be considered to the document is taken alone | | |
| "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as "Y" document of particular relevance; the claim specified) specified) when the document is taken above "Y" document of particular relevance; the claim considered to involve an inventive step whe combined with one or more other such doc | | | ep when the document is the documents, such combination | |
| "O" document | referring to an oral disclosure, use, exhibition or other means | being obvious to a person skilled in t | | |
| | "P" document published prior to the international filing date but later than the "&" document member of the same patent family priority date claimed | | | |
| | Date of the actual completion of the international search Date of mailing of the international search report | | | |
| | 16 March 2005 (16.03.2005) Name and mailing address of the ISA/US Authorized officer | | | |
| Mai | ail Stop PCT, Attn: ISA/US nmissioner for Patents | Xuan Thai | MJal | |
| P.O Ale: | P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230 Telephone No. 703-308-1148 | | | |
| | · • · · · · · · · · · · · · · · · · · · | l | | |

Form PCT/ISA/210 (second sheet) (January 2004)

International application No.
PCT/US04/06550

BOX III. OBSERVATIONS WHERE UNITY OF INVENTION IS LACKING

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In order for all inventions to be examined, the appropriate additional examination fees must be paid.

Group I, claim(s) 1-8, drawn to a method for displaying a confirmation message based on a wager amount.

Group II, claim(s) 9-22, drawn to determining whether to present confirmation information.

Group III, claim(s) 23-28, drawn to detecting a confirmation trigger.

Group IV, claim(s) 29-32, drawn to determining whether to present confirmation information based on information about a player.

The inventions listed as Groups I - IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the claims share the common technical feature of "presenting a confirmation message to a player". This feature is clearly recited in the invention as taught by U.S. Patent No. 6,299,532 B1 col. 5 lines 12-15 to Smith. The common technical feature lacks novelty and does make a contribution over the prior art.

Continuation of B. FIELDS SEARCHED Item 3:

EAST: search terms: confirm, wager INTERNET: search terms: confirm, wager

PATENT COOPERATION TREATY

03-08WO

From the

INTERNATIONAL SEARCHING AUTHORITY

To:
MICHAEL D. DOWNS
WALKER DIGITAL MANAGEMENT, LLC
INTELLECTUAL PROPERTY DEPT.
FIVE HIGH RIDGE PARK
STAMFORD. CT 06905

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

| STAMFORD, CT 06905 | INTERNATIONAL SEARCHING AUTHORITY | | | |
|---|--|--|--|--|
| | (PCT Rule 43bis.1) | | | |
| | Date of mailing (day/month/year) 04 MAY 2005 | | | |
| Applicant's or agent's file reference | FOR FURTHER ACTION | | | |
| 03-018WO \/ | See paragraph 2 below | | | |
| International application No. International filing date | (day/month/year) Priority date (day/month/year) | | | |
| PCT/US04/06550 03 March 2004 (03.03.2 | 2004) 04 March 2003 (04.03.2003) | | | |
| International Patent Classification (IPC) or both national classifica | tion and IPC | | | |
| IPC(7): A63F 09/24 and US Cl.: 463/25 | | | | |
| Applicant | | | | |
| WALKER DIGITAL, LLC | The state of the s | | | |
| WALKER DIGITAL, LEC | DECE WEN | | | |
| 1. This opinion contains indications relating to the following iter | ns: MAY 0 6 2005 | | | |
| Box No. I Basis of the opinion | 11111 | | | |
| Box No. II Priority | WALKER DIGITAL | | | |
| Box No. III Non-establishment of opinion with re | gard to novelty, inventive step and industrial applicability | | | |
| Box No. IV Lack of unity of invention | | | | |
| Box No. V Reasoned statement under Rule 43bis applicability; citations and explanation | s.1(a)(i) with regard to novelty, inventive step or industrial one supporting such statement | | | |
| Box No. VI Certain documents cited | | | | |
| Box No. VII Certain defects in the international a | pplication | | | |
| Box No. VIII Certain observations on the internation | onal application | | | |
| 2. FURTHER ACTION | | | | |
| If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered. | | | | |
| If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, which are expired later. | | | | |
| For further options, see Form PCT/ISA/220. | | | | |
| 3. For further details, see notes to Form PCT/ISA/220. | | | | |
| Name and mailing address of the ISA/ US | Authorited officer | | | |
| Mail Stop PCT, Attn: ISA/US | Xuan Thai | | | |
| Commissioner for Patents P.O. Box 1450 | | | | |
| Alexandria, Virginia 22313-1450 | Telephone No.~ 703-308-1148 | | | |
| Facsimile No. (703) 305-3230 | l i | | | |

Form PCT/ISA/237 (cover sheet) (January 2004)

07-67-05 03-018WO

INTERNATIONAL SEARCH REPORT

International application No.
PCI/US04/06550

| | The second of th | 7.01,000,000 | | | |
|------------------|--|--|------------------------------------|--|--|
| | SIFICATION OF SUBJECT MATTER | | | | |
| IPC(7) | : A63F 09/24 : 463/25 | | | | |
| US CL | : 463/25 International Patent Classification (IPC) or to both nat | ional classification and IPC | | | |
| | OS SEARCHED | Total Oldopation and 14 C | | | |
| | | | | | |
| Minimum doc | cumentation searched (classification system followed by | y classification symbols) | | | |
| U.S. : 46 | 63/25, 29 | | i | | |
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| | | | . Also Cialda assaultad | | |
| Documentatio () | n searched other than minimum documentation to the | extent that such documents are included in | The fields searched | | |
| = | | | İ | | |
| · | | | | | |
| | | Cart I I I | - L to | | |
| Electronic dat | a base consulted during the international search (name | of data base and, where practicable, sear | ch terms used) | | |
| Please See Co | ontinuation Sheet | | | | |
| | | | | | |
| C. DOCU | IMENTS CONSIDERED TO BE RELEVANT | | | | |
| Category * | Citation of document, with indication, where ap | propriate of the relevant passages | Relevant to claim No. | | |
| | Betmaker.com, July 21, 2001 [online] [Retrieved on | 2005-03-161 Retrieved from the | 1, 2, 5-8 | | |
| x | Internet < URL:http://www.betmaker.com>. | 2005-05-10], Refrieved from the | 1, 2, 3 0 | | |
| Y Y | Internet COKE.mip.//www.beimakor.com>. | | 3,4 | | |
| 1 I | | , · | , , | | |
| | US 6,077,163 A (WALKER et al) 20 June 2000 (20. | 06 2000) entire document | 3, 4 | | |
| Y | US 6,077,165 A (WALKER et al) 20 Julie 2000 (20. | od.2000), emire document. | 2, 1 | | |
| , | US 5,873,782 A (HALL) 23 February 1999 (23.02.1 | QQQ\ entire document | 1-8 | | |
| A | 05 5,875,782 A (HALL) 25 February 1555 (25.02.1 | .999), chare accument. | | | |
| . | US 6,299,532 B1 (SMITH) 09 October 2001 (09.10. | 2001) entire document | 1-8 | | |
| A | 05 6,299,532 B1 (SWITH) 09 October 2001 (09:10: | 200x), Citire document. | 10 | | |
| | US 6,336,857 A (MCBRIDE) 08 January 2002 (08.0 | 11 2002) entire document | 1-8 | | |
| A | 05 6,550,657 A (MCBRIDE) 08 January 2002 (08.0 | 71.2002); CIRITO GOGGINOM. | | | |
| | X. P US 6,527,638 B1 (WALKER et al) 04 March 2003 (04.03.2003), entire document. | | | | |
| X, P | US 0,327,038 BI (WALKER Et al) 04 March 2005 (| 04.03.2003), Chite doddinent. | 1 | | |
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| Further | documents are listed in the continuation of Box C. | See patent family annex. | | | |
| * 8 | pecial categories of cited documents: | "T" later document published after the inte | | | |
| | | date and not in conflict with the applic | cation but cited to understand the | | |
| "A" document | defining the general state of the art which is not considered to be lar relevance | principle or theory underlying the inve | enrion | | |
| | | "X" document of particular relevance; the | claimed invention cannot be | | |
| "E" earlier ap | plication or patent published on or after the international filing date | considered novel of camot be considered when the document is taken alone | red to involve an inventive step | | |
| "L" document | which may throw doubts on priority claim(s) or which is cited to | | | | |
| establish i | the publication date of another citation or other special reason (as | "Y" document of particular relevance; the | | | |
| specified) | | considered to involve an inventive ste combined with one or more other sucl | | | |
| "O" document | referring to an oral disclosure, use, exhibition or other means | being obvious to a person skilled in th | | | |
| 1 | | "&" document member of the same patent | family | | |
| "P" document | published prior to the international filing date but later than the ate claimed | C aboutton monton of the hards parent | | | |
| h | ctual completion of the international search | Date of mailing of the international sear | ch report | | |
| Date of the a | ciual completion of the international seaten | DA MAN 2001 | - | | |
| 16 March 200 | 16 March 2005 (16.03.2005) U 4 W/A 1, 2005 | | | | |
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| | il Stop PCT, Attn: ISA/US | JANUAU/ YOUW | | | |
| Cor | nmissioner for Patents | Xivay Thai | | | |
| |). Box 1450 | Telephone No. 703-308-1148 | | | |
| | xandria, Virginia 22313-1450 | | | | |
| racsimile No | . (703) 305-3230 | <u> </u> | | | |

Form PCT/ISA/210 (second sheet) (January 2004)

International application No. PCT/US04/06550

BOX III. OBSERVATIONS WHERE UNITY OF INVENTION IS LACKING

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In order for all inventions to be examined, the appropriate additional examination fees must be paid.

Group I, claim(s) 1-8, drawn to a method for displaying a confirmation message based on a wager amount.

Group II, claim(s) 9-22, drawn to determining whether to present confirmation information.

Group III, claim(s) 23-28, drawn to detecting a confirmation trigger.

Group IV, claim(s) 29-32, drawn to determining whether to present confirmation information based on information about a player.

The inventions listed as Groups I - IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the claims share the common technical feature of "presenting a confirmation message to a player". This feature is clearly recited in the invention as taught by U.S. Patent No. 6,299,532 B1 col. 5 lines 12-15 to Smith. The common technical feature lacks novelty and does make a contribution over the prior art.

Continuation of B. FIELDS SEARCHED Item 3:

EAST: search terms: confirm, wager INTERNET: search terms: confirm, wager

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | |
|-------------------------------------|----------------------------------|--------------------------|---------------------|------------------|--|
| 11/422,734 06/07/2006 Jay S. Walker | | | 03-018-C3 4644 | | |
| | 7590 12/03/200 ITAL MANAGEMEN | | EXAMINER | | |
| 2 HIGH RIDGE | E PARK | D'AGOSTINO, PAUL ANTHONY | | | |
| STAMFORD, CT 06905 | | | ART UNIT | PAPER NUMBER | |
| | | 3714 | | | |
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| | | | MAIL DATE | DELIVERY MODE | |
| | | | 12/03/2008 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | Application N | lo. | Applicant(s) | |
|---|--|-----------------|----------------|---|--------------------|-------------|
| | | 11/422,734 | | WALKER ET AL. | | |
| Office Action Summary | | | Examiner | | Art Unit | |
| | | Paul A. D'Ago | stino | 3714 | | |
| Period fo | The MAILING DATE of this commur or Reply | nication appe | ears on the co | ver sheet with the c | orrespondence ac | idress |
| WHIC - Exter after - If NC - Failu Any (| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | | | | |
| Status | | | | | | |
| 1) 又 | Responsive to communication(s) file | ed on 07 Jun | ne 2006 | | | |
| • | • | - | action is non- | final | | |
| 3) | Since this application is in condition | <i>'</i> — | | | secution as to the | e merits is |
| ٥,١ | closed in accordance with the pract | | • | • | | o morno io |
| Dispositi | on of Claims | | | | | |
| 4)⊠ | Claim(s) 9 and 10 is/are pending in | the application | ion. | | | |
| | 4a) Of the above claim(s) is/a | | | leration. | | |
| | Claim(s) is/are allowed. | | | | | |
| | Claim(s) <u>9 and 10</u> is/are rejected. | | | | | |
| · · | Claim(s) is/are objected to. | | | | | |
| • | Claim(s) are subject to restrict | ction and/or | election requ | irement. | | |
| | on Papers | | · | | | |
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| • | The specification is objected to by th The drawing(s) filed on <u>07 June 200</u> | | | vr h\□ chicotod to | by the Everniner | |
| 10)[| - • • • • • • • • • • • • • • • • • • • | | | · — • | - | |
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| 11) | Replacement drawing sheet(s) including | _ | - | | | , , |
| ' ' / 🗀 | The oath or declaration is objected t | o by the ⊑xa | immer. Note | ne attached Office | Action of form P | 10-152. |
| Priority ι | ınder 35 U.S.C. § 119 | | | | | |
| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. | | | | | | |
| 2) Notic | t(s) Le of References Cited (PTO-892) Le of Draftsperson's Patent Drawing Review (Internation Disclosure Statement(s) (PTO/SB/08) Le of No(s)/Mail Date 8/24/2006 and 1/25/2007. | PTO-948) | 4) 5) 6) | Interview Summary Paper No(s)/Mail Da Notice of Informal F Other: | ate | |

Application/Control Number: 11/422,734 Page 2

Art Unit: 3714

DETAILED ACTION

This responds to Applicant's Application filed 06/07/2006. Claims 1-8 and 11-32 have been cancelled. Claims 9-10 are now pending in this application.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Pub. No. 2001/0036853 to Thomas (Thomas).

Thomas discloses a method ([0008]; Figs. 8-13 and [0107-0111]), comprising: receiving a request to initiate play of a game at a gaming device (player initiates bet [0107];in a lottery [0008]);

determining whether to present confirmation information to a player (Fig. 8 "Finalize (Confirm) Now" and "Finalize (Confirm) Later" buttons); and

if confirmation information is to be presented to the player ([0107]):

determining confirmation information to present to the player ("bet" [0107-0108]);

presenting the confirmation information to the player (Fig. 13);

receiving a signal indicating that the player confirms the confirmation information (Fig. 13 and [0108-0111]);

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decrementing a credit balance associated with the player; and initiating play of the game (Fig. 13 and [0108-0111]).

{determining whether to present confirmation information to the player comprises: determining at least one confirmation criteria ("bet" [0107-0108] and confirmation criteria could be interpreted to mean criteria as to non-bet related matter e.g., generating a reminder message [0108]).

Double Patenting

- 3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).
- 4. A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

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5. Claims 9-10 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 9-10 of copending Application No. 11/422,712 and claims 9-10 of copending Application no. 11/422,723. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

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- 6. A nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
- 7. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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8. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

- 9. Claims 9-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8, 15, and 33-43 of copending Application No. 10/791,028. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both involve presenting a confirmation to a player and receiving a player response before initiating game play.
- 10. This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

- 11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is provided in the Notice of References Cited.
- 12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571)270-1992. The examiner can normally be reached on Monday Friday, 7:30 a.m. 5:00 p.m..
- 13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/ Supervisory Patent Examiner, Art Unit 3714

/Paul A. D'Agostino/ Examiner, Art Unit 3714

Notice of References Cited Application/Control No. 11/422,734 Examiner Paul A. D'Agostino Applicant(s)/Patent Under Reexamination WALKER ET AL. Page 1 of 1

U.S. PATENT DOCUMENTS

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|---|---|--|-----------------|----------------------|----------------|
| * | Α | US-5,415,416 A | 05-1995 | Scagnelli et al. | 463/25 |
| * | В | US-2001/0036853 A1 | 11-2001 | Thomas, William L. | 463/17 |
| * | C | US-2002/0047044 A1 | 04-2002 | ORUS et al. | 235/380 |
| * | D | US-2002/0073021 A1 | 06-2002 | Ginsberg et al. | 705/38 |
| * | Е | US-6,443,841 B1 | 09-2002 | Rossides, Michael T. | 463/25 |
| * | F | US-2003/0096651 A1 | 05-2003 | Black, Andrew Wilson | 463/42 |
| * | G | US-2003/0119528 A1 | 06-2003 | Pew et al. | 455/456 |
| * | Η | US-2004/0078208 A1 | 04-2004 | Burwell, Malcolm | 705/001 |
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FOREIGN PATENT DOCUMENTS

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NON-PATENT DOCUMENTS

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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)

Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alcandria, Virginia 2313-1450 www.uispio.gov

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| APPLICATION NO. FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO | |
| 11/373,757 03/10/2006 | Jay S. Walker | 02-040-1 | 7269 |
| 22927 7590 09/30/2008 WALKER DIGITAL MANAGEMENT | | EXA | MINER |
| 2 HIGH RIDGE PARK STAMFORD, CT 06905 | MECEIVEN | LBIVA | FRANK M |
| STAINTOAD, CT 00903 | MECEINEIII | ARTUNIT | PAPBR NUMBBR |
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| | WALKER DIGITAL | MAIL DATE | DELIVERY MODE |
| | WALKER DIGHT | 09/30/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

File No: Attorney: Due Date: Docketed:

File No: Attorney: Due Date: 10つるの Docketed: 1

| | | Application No. | Applicant(s) | |
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| | | FRANK M. LEIVA | 3714 | |
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| WHICHEVER IS LONG - Extensions of time may be availater SIX (a) MONTHS from the - If NO period for reply is specifie - Failure to reply within the set of | TORY PERIOD FOR REPLY ER, FROM THE MAILING DA liable under the provisions of 37 CFR 1.13 and above, the maximum statutory period wire extended period for reply will, by statute, a later than three months after the mailing See 37 CFR 1.704(b). | TE OF THIS COMMUNI 6(a). In no event, however, may a r ill apply and will expire SIX (6) MON cause the application to become At | CATION, reply be timely filed ITHS from the mailing date of BANDONED (35 U.S.C.§ 13 | this communication: |
| Status | | | | |
| 1) Responsive to cor | mmunication(s) filed on <u>10 Me</u> | orch 2006 | -7 | |
| 2a) ☐ This action is FIN | | action is non-final. | | |
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| Cluseu III accordai | ince with the bractice direct Ex | t parte Guayre, 1805 O.L | 7. 11, 400 O.G. 2101 | |
| Disposition of Claims | | | | |
| 4) Claim(s) 1-17 is/a | re pending in the application. | | | |
| | iaim(s) is/are withdraw | n from consideration. | | |
| 5) Claim(s)is | | | | |
| 6)⊠ Claim(s) <u>1-17</u> is/a | | | | |
| 7) Claim(s)is | | | | |
| | e subject to restriction and/or | election requirement. | | |
| | | | | |
| Application Papers | | | | |
| 9) The specification is | s objected to by the Examiner | | | |
| 10)☐ The drawing(s) file | d on <u>10 March 2006</u> is/are: a |)∐ accepted or b)⊠ obj | ected to by the Exan | iner. |
| Applicant may not it | equest that any objection to the d | rawing(s) be held in abeyar | nce. See 37 CFR 1.85(| 2). |
| Replacement drawn | ng sheet(s) including the correction | on is required if the drawing | (s) is objected to. See | V CFR 1.121(d). |
| | ation is objected to by the Exa | | | H4 |
| D.1-1410511000 | | · · · · · · · · · · · · · · · · · · · | | |
| Priority under 35 U.S.C. § | | | | |
| | s made of a claim for foreign p | oriority under 35 U.S.C. § | § 119(a)-(d) or (f). | |
| · · · · · · · · · · · · · · · · · · · | †c)☐ None of: | | 3 | |
| | ples of the priority documents | | | |
| 2. ☐ Certified co | ples of the priority documents | have been received in A | pplication No | |
| 3. ☐ Copies of th | e certified copies of the priori | ty documents have been | received in this Natio | mal Stage |
| application | from the International Bureau | (PCT Rule 17.2(a)). | | |
| * See the attached de | etailed Office action for a list o | f the certified copies not | received. | |
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| Attachment(s) | | <u>. </u> | | |
| 1) Notice of References Cited | | 4) Interview S | Summary (PTO-413) s)/Mall Date | |
| Notice of Draftsperson's Pate Information Disclosure State | ent Drawing Review (PTO-948) | | nformal Petent Application | |
| Paper No(s)/Mail Date 03/10 | <u>/2006</u> . | 6) 🗌 Other: | | |
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Art Unit: 3714

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the selection of a variable and the variable containing two separate values from which the game result is determined upon, and "preventing the second payout from being provided to the player if the second outcome corresponds to a payout must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filling date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit; 3714

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1. 9 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1 and 9 call out for the selection of a variable by the player and the variable containing two separate values from which the game result is determined upon; the examiner has fails to find a first value and second value of a variable and a variable selected by the player in the specifications. Claim 14 states "preventing the second payout from being provided to the player if the second outcome corresponds to a payout" where the examiner fails to find reference in the specifications in order to establish enablement.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invertion was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 6. Claims 1-14 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Palmer et al (US 6,939,224 B2).
- 7. Regarding claim 1; Palmer discloses a method, comprising determining a result at a game machine based on a random number and a first value of a variable selected by a player and outputting the result to the player; (fig. 3C and col. 8:36-46):

determining a hypothetical result at the game machine based on the random number and a second value of the variable; and outputting the hypothetical result to the player, (col. 7:37-58).

- 8. Regarding claims 2 and 10; Palmer discloses further including determining a message based upon a difference between the result and the hypothetical result (col. 7:49-58).
- 9. Regarding claims 3 and 11; Palmer discloses further including displaying the message in a partition on the game machine, wherein the partition is a pop-up window, (fig. 3A:108a).
- 10. Regarding claims 4 and 12; Palmer discloses wherein determining the message includes determining a recommendation of a feature on the game magnine based upon the difference between the result and the hypothetical result, (fig. 54:108a).
- 11. Regarding claims 5 and 13; Palmer discloses wherein the feature corresponds to the second value of the variable, (fig. 5B-5D), wherein every variable has at least three other values one of payout, probability and expected value, all of which is used to determined the niessages to be sent to the player.

Page 4

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12. Regarding claim 6: Palmer discloses wherein the second value is a value recommended to the player, but not selected by the player, prior to the determination of the result, (fig. 5A 108a) wherein recommendations are made on first value A or second value B.

- 13. Regarding claim 7; Palmer discloses wherein outputting the hypothetical result to the player comprises outputting a recommendation of the second value of the variable to the player, the recommendation comprising a recommendation that the player select the second value prior to initiating a subsequent game play, (fig. 54).
- 14. Regarding claim 8; Palmer discloses wherein the method comprises an apparatus, with a processor, a memory operatively connected to the processor, the memory storing a program for directing the processor, and the processor operable with the memory and a program, (col. 6:7-16).
- 15. Regarding claim 14; Palmer discloses further comprising determining whether the first outcome corresponds to a payout, thereby determining a first payout; providing the first payout to the player if the first outcome corresponds to a payout, determining whether the second outcome corresponds to a payout, thereby determining a second payout; and preventing the second payout from being provided to the player if the second outcome corresponds to a payout, (fig. 6B) shows payout values for win place and show for all three horses, concluding that at the end of the race at least three winning outcomes will occur yet payment will be made on the actual horse bettor, which means that even if the second outcome corresponds to a payout, it will be prevented from payment since it was not bet on.
- 16. Regarding claim 17; Palmer discloses wherein indicating the second outcome to the player comprises indicating to the player a difference in what a result of the game would have been if the second value had been used to determine the first outcome, (see claim 16 rejection).

Page 5

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patentimay not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior artiare such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- 18. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer et al (US 6,939,224 B2).
- 19. Regarding claim 15; Palmer discloses all limitations of claim 1 which claim 15 depends on, yet is silent to wherein indicating the second outcome to the player comprises indicating the second payout to the player, (fig. 6B) shows a table of the possible outcomes, and it is well-known or customary for gaming machines to show all possible outcomes and the payouts after the game is over, to entice or teas the player.
- 20. Regarding claim 16; Palmer discloses all the limitations of claim 1 from which claim 16 depends on, yet fails to disclose wherein indicating the second payout to the player further comprises determining a difference between the first payout and the second payout; determining whether the second payout is greater than the first payout; and outputting an indication of the second payout to the player only if the second payout is greater than the first payout. The well-known technique of teasing the player wherein the player is shown the outcome of the total choices to see where the prize was hidden or to show how much the player would have won if continued with the game or chosen differently, is common use in gaming to enhance game play satisfaction.

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21. Examiner's Note: Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner

Conclusion

Any inquity concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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